

Sixth Appellate District

San Jose, California

MONDAY, NOVEMBER 15, 2004

H026269 PEOPLE v. JACOBY

The judgment is affirmed. (not published)
(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)

Filed November 15, 2004

TUESDAY, NOVEMBER 16, 2004

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J.; McAdams, J.; Walsh, J.*; and Jane Valdez Flor, Deputy Clerk.

(*Judge of the Santa Clara Superior Court assigned by the Chief Justice pursuant to Article VI, Section 6 of the California Constitution.)

H027307 PEOPLE v. BRANDON J.

Cause called and argued by James W. Duffy appearing for Appellant and by Martin S. Kaye, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H025938 RANDALL v. CAMPBELL, et al.

Cause called and argued by James J. O'Donnell appearing for Appellant and by Charles J. Smith appearing for Respondents. Cause ordered submitted.

Rushing, P.J. and McAdams, J. leave the bench and Premo, J. and Walsh, J.* take the bench.

(*Judge of the Santa Clara Superior Court assigned by the Chief Justice pursuant to Article VI, Section 6 of the California Constitution.)

H027101 BRITT, JR., et al. v. JAMIESON

Cause called and argued by Kathryn Ashton appearing for Appellants and by Jeffrey Nussbaum appearing for Respondent. Cause ordered submitted.

H026786 NEMETH v. HEER

Cause called and argued by John F. Schuck appearing for Appellant and by Dennis Babbitts appearing for Respondent. Cause ordered submitted.

Sixth Appellate District

San Jose, California

Tuesday, November 16, 2004 (continued)

H026682 MARINE, et al. v. KENNEDY

Cause called and argued by Orrin Leigh Grover appearing for Appellants and by Michael John Garvin appearing for Respondent. Cause ordered submitted. Court recesses until 1:30 p.m.

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Premo, Acting P.J.; Bamattre-Manoukian, J.; Walsh, J.*; and W. Magsaysay, Deputy Clerk. (*Judge of the Santa Clara Superior Court assigned by the Chief Justice pursuant to Article VI, Section 6 of the California Constitution.)

H027090 IN RE LYNN ALAGAO ALVARADE ON HABEAS CORPUS

Cause called and argued by Elizabeth Kim, Deputy Attorney General, appearing for Appellant and by Michael Kresser appearing for Respondent. Cause ordered submitted. Court adjourns.

H026719 MILLER v. MILLER

The order dated September 18, 2003 is reversed. The matter is remanded for further proceedings consistent with this opinion. Parties shall bear their own costs on appeal. (not published) (Elia, Acting P.J.; I concur: McAdams, J.; concurring and dissenting opinion by: Bamattre-Manoukian, J.) Filed November 16, 2004

H026956 CITIZENS FOR RESPONSIBLE DECISION-MAKING, et al. v. CITY OF SEASIDE CITY COUNCIL; MONTEREY PENINSULA FOUNDATION, et al.

The judgment is affirmed. (not published) (Mihara, J.; We concur: Rushing, P.J., Premo, J.) Filed November 16, 2004

H026646 PEOPLE v. WARREN

The judgment and sentence are affirmed. (not published) (McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.) Filed November 16, 2004

Sixth Appellate District

San Jose, California

Tuesday, November 16, 2004 (continued)

H027035 PEOPLE v. LEAE

The gang conditions of probation are modified to read as follows: "You are not to associate with any individuals identified by probation as members of a criminal street gang. You are not to knowingly frequent any areas identified by probation as areas of criminal street gang related activity nor knowingly participate in any criminal street gang activity. You are not to use, wear, or display any colors or clothing that you know implies membership in or affiliation with a criminal street gang.... You are not to knowingly obtain any criminal street gang tattoos.... For purposes of these conditions, the term 'criminal street gang' means a criminal street gang as defined in Penal Code section 186.22, subdivisions (e) and (f)." Except as modified here, the judgment is affirmed. (not published) (Bamattre-Manoukian, Acting P.J.; I concur: McAdams, J.; concurring opinion by: Mihara, J.)
Filed November 16, 2004

H026389 PEOPLE v. VASQUEZ

The judgment is affirmed. (not published)
(Bamattre-Manoukian, J.; We concur: Elia, Acting P.J., McAdams, J.)
Filed November 16, 2004

WEDNESDAY, NOVEMBER 17, 2004

H026467 PEOPLE v. LAZAREVICH

By the Court:

The opinion which was filed on October 18, 2004 is certified for publication. (Mihara, J.; Rushing, P.J., Elia, J.) The written opinion which was filed on October 18, 2004 has now been certified for publication pursuant to rule 976(b) of the California Rules of Court, and it is therefore ordered that the opinion be published in the official reports.
Dated: November 17, 2004 Rushing, P.J.

H027053 IN RE K.B.;DFCS v. JOSEPH B., et al.

The findings and orders of the December 12, 2003 hearing are affirmed. (not published)
(Bamattre-Manoukian, J.; We concur: Premo, Acting P.J., McAdams, J.)
Filed November 17, 2004

Sixth Appellate District

San Jose, California

THURSDAY, NOVEMBER 18, 2004

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J.; Mihara, J., and Beth Miller, Deputy Clerk.

H026575 PEOPLE v. MCEVOY

No appearances made by counsel. Matter ordered off calendar.

Counsel for the following cases stipulate that Elia, J. may listen to the tape of oral argument in lieu of being present on the bench.

H026882 MUSCLETECH RESEARCH AND DEVELOPMENT, INC. v ZURICH NORTH AMERICA, et al.

Cause called and argued by Robert Zeavin appearing for Appellant and by Mark Craig Goodman appearing for Respondents. Cause ordered submitted.

Rushing, P.J. and Mihara, J. leave the bench and Bamattre-Manoukian, Acting P.J. and McAdams, J. take the bench.

H026360 CARMEL DEVELOPMENT COMPANY v. RLI INSURANCE COMPANY; FIREMAN'S FUND INSURANCE COMPANY

Cause called and argued by Julia A. Molander appearing for Appellant and by Lori A. Sebransky appearing for Respondent. Cause ordered submitted. Court is in recess until the 1:30 p.m. calendar.

H025946 PEOPLE v. HERNANDEZ

(Filed order modifying opinion.) There is no change in the judgment. Respondent's petition for rehearing is denied. (not published)

(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed November 18, 2004

H026899 PEOPLE v. ACKERMAN

The judgment is affirmed. (published)
(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)
Filed November 18, 2004

Sixth Appellate District

San Jose, California

Thursday, November 18, 2004 (continued)

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California.
Present: Bamattre-Manoukian, Acting P.J.; Mihara, J.; McAdams, J.; and R. W. Norvelle, Deputy Clerk.

H026293 PEOPLE v. JORDAN

Cause called and argued by Irma Castillo appearing for Appellant and by Catherine McBrien, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H026621 HUDIS, et al. v. CRAWFORD

Cause called and argued by Hugo Gerstl appearing for Appellants and by Debra Crawford, Respondent appearing in pro per. Cause ordered submitted.

H027032 COUNTY OF MONTEREY v. BUSKIST

Cause called and argued by Appellant appearing in pro per. No appearance by counsel for respondent. Cause ordered submitted.

H025937 BARBOUNIS v. SASCO ELECTRIC

Cause called and argued by Benjamin Johnson appearing for Appellant and by Perry J. Woodward appearing for Respondent. Cause ordered submitted. Court stands in adjournment

H026668 LEVINSON v. JOSEPH

By the Court*:

Appellant's petition for rehearing is denied.

Filed: November 18, 2004

*Before Bamattre-Manoukian, Acting P.J., Mihara, J. and McAdams, J.

H024429 PEOPLE v. SCOTT

(Filed order modifying opinion.) There is no change in the judgment. Appellant's petition for rehearing is denied. (not published)

(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed November 18, 2004

Sixth Appellate District

San Jose, California

FRIDAY, NOVEMBER 19, 2004

H026348 MCCOY, et al. v. MONTEREY COUNTY HEALTH DEPARTMENT

The judgment is affirmed. (not published)
(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)

Filed November 19, 2004

H025590 PEOPLE v. PINTO

The judgment is affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed November 19, 2004

H026798 MARRIAGE OF BEREZNAK & HEMINGER

The orders denying appellant's motion and awarding
respondent attorney fees are affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Mihara, J.)
Filed November 19, 2004